

**AMENDMENT TO H.R. 2260, AS REPORTED
OFFERED BY MR. ROTHMAN OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Conquering Pain Act of 1999”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.

TITLE I—EMERGENCY RESPONSE TO THE PUBLIC HEALTH
CRISIS OF PAIN

- Sec. 101. Guidelines for the treatment of pain.
- Sec. 102. Quality improvement projects.
- Sec. 103. Surgeon General’s report.

TITLE II—DEVELOPING COMMUNITY RESOURCES

- Sec. 201. Family support networks in pain and symptom management.

TITLE III—REIMBURSEMENT BARRIERS

- Sec. 301. Insurance coverage of pain and symptom management.

TITLE IV—IMPROVING FEDERAL COORDINATION OF POLICY,
RESEARCH, AND INFORMATION

- Sec. 401. Advisory Committee on Pain and Symptom Management.
- Sec. 402. Institutes of Medicine report on controlled substance regulation and the use of pain medications.
- Sec. 403. Conference on pain research and care.

TITLE V—DEMONSTRATION PROJECTS

- Sec. 501. Provider performance standards for improvement in pain and symptom management.

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—Congress finds that—



1 (1) pain is often left untreated or under-treated
2 especially among older patients, African Americans,
3 and children;

4 (2) chronic pain is a public health problem af-
5 fecting at least 50,000,000 Americans through some
6 form of persisting or recurring symptom;

7 (3) 40 to 50 percent of patients experience
8 moderate to severe pain at least half the time in
9 their last days of life;

10 (4) 70 to 80 percent of cancer patients experi-
11 ence significant pain during their illness;

12 (5) despite the best intentions of physicians,
13 nurses, pharmacists, and other health care profes-
14 sionals, pain is often under-treated because of the
15 inadequate training of physicians in pain manage-
16 ment;

17 (6) despite the best intentions of physicians,
18 nurses, pharmacists, and other health care profes-
19 sionals, pain and symptom management is often
20 suboptimal because the health care system has fo-
21 cused on cure of disease rather than the manage-
22 ment of a patient's pain and other symptoms;

23 (7) the technology and scientific basis to ade-
24 quately manage most pain is known;



1 (8) pain should be considered the fifth vital
2 sign; and

3 (9) coordination of Federal efforts is needed to
4 improve access to high quality effective pain and
5 symptom management in order to assure the needs
6 of chronic pain patients and those who are termi-
7 nally ill are met.

8 (b) PURPOSE.—The purpose of this Act is to enhance
9 professional education in palliative care and reduce exces-
10 sive regulatory scrutiny in order to mitigate the suffering,
11 pain, and desperation many sick and dying people face at
12 the end of their lives in order to carry out the clear opposi-
13 tion of the Congress to physician-assisted suicide.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) CHRONIC PAIN.—The term “chronic pain”
17 means a pain state that is persistent and in which
18 the cause of the pain cannot be removed or other-
19 wise treated. Such term includes pain that may be
20 associated with long-term incurable or intractable
21 medical conditions or disease.

22 (2) DRUG THERAPY MANAGEMENT SERVICES.—
23 The term “drug therapy management services”
24 means consultations with a physician concerning a
25 patient which results in the physician—



1 (A) changing the drug regimen of the pa-
2 tient to avoid an adverse drug interaction with
3 another drug or disease state;

4 (B) changing an inappropriate drug dosage
5 or dosage form with respect to the patient;

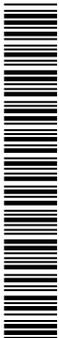
6 (C) discontinuing an unnecessary or harm-
7 ful medication with respect to the patient;

8 (D) initiating drug therapy for a medical
9 condition of the patient; or

10 (E) consulting with the patient or a care-
11 giver in a manner that results in a significant
12 improvement in drug regimen compliance.

13 Such term includes services provided by a physician,
14 pharmacist, or other health care professional who is
15 legally authorized to furnish such services under the
16 law of the State in which such services are fur-
17 nished.

18 (3) END OF LIFE CARE.—The term “end of life
19 care” means a range of services, including hospice
20 care, provided to a patient, in the final stages of his
21 or her life, who is suffering from 1 or more condi-
22 tions for which treatment toward a cure or reason-
23 able improvement is not possible, and whose focus of
24 care is palliative rather than curative.



1 (4) FAMILY SUPPORT NETWORK.—The term
2 “family support network” means an association of 2
3 or more individuals or entities in a collaborative ef-
4 fort to develop multi-disciplinary integrated patient
5 care approaches that involve medical staff and ancil-
6 lary services to provide support to chronic pain pa-
7 tients and patients at the end of life and their care-
8 givers across a broad range of settings in which pain
9 management might be delivered.

10 (5) HOSPICE.—The term “hospice care” has
11 the meaning given such term in section 1861(dd)(1)
12 of the Social Security Act (42 U.S.C. 1395x(dd)(1)).

13 (6) PAIN AND SYMPTOM MANAGEMENT.—The
14 term “pain and symptom management” means serv-
15 ices provided to relieve physical or psychological pain
16 or suffering, including any 1 or more of the fol-
17 lowing physical complaints—

- 18 (A) weakness and fatigue;
19 (B) shortness of breath;
20 (C) nausea and vomiting;
21 (D) diminished appetite;
22 (E) wasting of muscle mass;
23 (F) difficulty in swallowing;
24 (G) bowel problems;
25 (H) dry mouth;



1 (I) failure of lymph drainage resulting in
2 tissue swelling;

3 (J) confusion;

4 (K) dementia;

5 (L) anxiety; and

6 (M) depression.

7 (7) PALLIATIVE CARE.—The term “palliative
8 care” means the total care of patients whose disease
9 is not responsive to curative treatment, the goal of
10 which is to provide the best quality of life for such
11 patients and their families. Such care—

12 (A) may include the control of pain and of
13 other symptoms, including psychological, social
14 and spiritual problems;

15 (B) affirms life and regards dying as a
16 normal process;

17 (C) provides relief from pain and other dis-
18 tressing symptoms;

19 (D) integrates the psychological and spir-
20 itual aspects of patient care;

21 (E) offers a support system to help pa-
22 tients live as actively as possible until death;
23 and



1 (F) offers a support system to help the
2 family cope during the patient's illness and in
3 their own bereavement.

4 (8) SECRETARY.—The term "Secretary" means
5 the Secretary of Health and Human Services.

6 **TITLE I—EMERGENCY RE-**
7 **SPONSE TO THE PUBLIC**
8 **HEALTH CRISIS OF PAIN**

9 **SEC. 101. GUIDELINES FOR THE TREATMENT OF PAIN.**

10 (a) DEVELOPMENT OF WEBSITE.—Not later than 2
11 months after the date of enactment of this Act, the Sec-
12 retary, acting through the Agency for Health Care Policy
13 Research, shall develop and maintain an Internet website
14 to provide information to individuals, health care practi-
15 tioners, and health facilities concerning evidence-based
16 practice guidelines developed for the treatment of pain.

17 (b) REQUIREMENTS.—The website established under
18 subsection (a) shall—

19 (1) be designed to be quickly referenced by
20 health care practitioners; and

21 (2) provide for the updating of guidelines as
22 scientific data warrants.

23 (c) PROVIDER ACCESS TO GUIDELINES.—

24 (1) IN GENERAL.—In establishing the website
25 under subsection (a), the Secretary shall ensure that



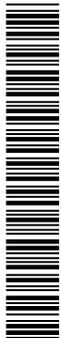
1 health care facilities have made the website known
2 to health care practitioners and that the website is
3 easily available to all health care personnel providing
4 care or services at a health care facility.

5 (2) USE OF CERTAIN EQUIPMENT.—In making
6 the information described in paragraph (1) available
7 to health care personnel, the facility involved shall
8 ensure that such personnel have access to the
9 website through the computer equipment of the facil-
10 ity and shall carry out efforts to inform personnel at
11 the facility of the location of such equipment.

12 (3) RURAL AREAS.—

13 (A) IN GENERAL.—A health care facility,
14 particularly a facility located in a rural or un-
15 derserved area, without access to the Internet
16 shall provide an alternative means of providing
17 practice guideline information to health care
18 personnel.

19 (B) ALTERNATIVE MEANS.—The Secretary
20 shall determine appropriate alternative means
21 by which a health care facility may make avail-
22 able practice guideline information on a 24-hour
23 basis, 7 days a week if the facility does not
24 have Internet access. The criteria for adopting
25 such alternative means should be clear in per-



1 mitting facilities to develop alternative means
2 without placing a significant financial burden
3 on the facility and in permitting flexibility for
4 facilities to develop alternative means of making
5 guidelines available. Such criteria shall be pub-
6 lished in the Federal Register.

7 **SEC. 102. QUALITY IMPROVEMENT EDUCATION PROJECTS.**

8 The Secretary shall provide funds for the implemen-
9 tation of special education projects, in as many States as
10 is practicable, to be carried out by peer review organiza-
11 tions of the type described in section 1152 of the Social
12 Security Act (42 U.S.C. 1320c-1) to improve the quality
13 of pain and symptom management. Such projects shall
14 place an emphasis on improving pain and symptom man-
15 agement at the end of life, and may also include efforts
16 to increase the quality of services delivered to chronic pain
17 patients.

18 **SEC. 103. SURGEON GENERAL'S REPORT.**

19 Not later than October 1, 2000, the Surgeon General
20 shall prepare and submit to the appropriate committees
21 of Congress and the public, a report concerning the state
22 of pain and symptom management in the United States.
23 The report shall include—

24 (1) a description of the legal and regulatory
25 barriers that may exist at the Federal and State lev-



1 els to providing adequate pain and symptom man-
2 agement;

3 (2) an evaluation of provider competency in
4 providing pain and symptom management;

5 (3) an identification of vulnerable populations,
6 including children, advanced elderly, non-English
7 speakers, and minorities, who may be likely to be
8 underserved or may face barriers to access to pain
9 management and recommendations to improve ac-
10 cess to pain management for these populations;

11 (4) an identification of barriers that may exist
12 in providing pain and symptom management in
13 health care settings, including assisted living facili-
14 ties;

15 (5) and identification of patient and family atti-
16 tudes that may exist which pose barriers in access-
17 ing pain and symptom management or in the proper
18 use of pain medications;

19 (6) an evaluation of medical school training and
20 residency training for pain and symptom manage-
21 ment; and

22 (7) a review of continuing medical education
23 programs in pain and symptom management.



1 **TITLE II—DEVELOPING**
2 **COMMUNITY RESOURCES**

3 **SEC. 201. FAMILY SUPPORT NETWORKS IN PAIN AND SYMP-**
4 **TOM MANAGEMENT.**

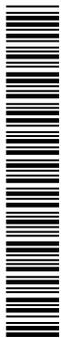
5 (a) ESTABLISHMENT.—The Secretary, acting
6 through the Public Health Service, shall award grants for
7 the establishment of 6 National Family Support Networks
8 in Pain and Symptom Management (in this section re-
9 ferred to as the “Networks”) to serve as national models
10 for improving the access and quality of pain and symptom
11 management to chronic pain patients and those individ-
12 uals in need of pain and symptom management at the end
13 of life and to provide assistance to family members and
14 caregivers.

15 (b) ELIGIBILITY AND DISTRIBUTION.—

16 (1) ELIGIBILITY.—To be eligible to receive a
17 grant under subsection (a), an entity shall—

18 (A) be an academic facility or other entity
19 that has demonstrated an effective approach to
20 training health care providers concerning pain
21 and symptom management and palliative care
22 services; and

23 (B) prepare and submit to the Secretary
24 an application (to be peer reviewed by a com-
25 mittee established by the Secretary), at such



1 time, in such manner, and containing such in-
2 formation as the Secretary may require.

3 (2) DISTRIBUTION.—In providing for the estab-
4 lishment of Networks under subsection (a), the Sec-
5 retary shall ensure that—

6 (A) the geographic distribution of such
7 Networks reflects a balance between rural and
8 urban needs; and

9 (B) at least 3 Networks are established at
10 academic facilities.

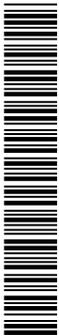
11 (c) ACTIVITIES OF NETWORKS.—A Network that is
12 established under this section shall—

13 (1) provide for an integrated interdisciplinary
14 approach to the delivery of pain and symptom man-
15 agement;

16 (2) provide community leadership in estab-
17 lishing and expanding public access to appropriate
18 pain care, including pain care at the end of life;

19 (3) provide assistance through caregiver and be-
20 reavement supportive services;

21 (4) develop a research agenda to promote effec-
22 tive pain and symptom management for the broad
23 spectrum of patients in need of access to such care
24 that can be implemented by the Network;



1 (5) provide for coordination and linkages be-
2 tween clinical services in academic centers and sur-
3 rounding communities to assist in the widespread
4 dissemination of provider and patient information
5 concerning how to access options for pain manage-
6 ment;

7 (6) establish telemedicine links to provide edu-
8 cation and for the delivery of services in pain and
9 symptom management; and

10 (7) develop effective means of providing assist-
11 ance to providers and families for the management
12 of a patient's pain 24 hours a day, 7 days a week.

13 (d) PROVIDER PAIN AND SYMPTOM MANAGEMENT
14 COMMUNICATIONS PROJECTS.—

15 (1) IN GENERAL.—Each Network shall estab-
16 lish a process to provide health care personnel with
17 information 24 hours a day, 7 days a week, con-
18 cerning pain and symptom management. Such proc-
19 ess shall be designed to test the effectiveness of spe-
20 cific forms of communications with health care per-
21 sonnel so that such personnel may obtain informa-
22 tion to ensure that all appropriate patients are pro-
23 vided with pain and symptom management.

24 (2) TERMINATION.—The requirement of para-
25 graph (1) shall terminate with respect to a Network



1 on the day that is 2 years after the date on which
2 the Network has established the communications
3 method.

4 (3) EVALUATION.—Not later than 60 days after
5 the expiration of the 2-year period referred to in
6 paragraph (2), a Network shall conduct an evalua-
7 tion and prepare and submit to the Secretary a re-
8 port concerning the costs of operation and whether
9 the form of communication can be shown to have
10 had a positive impact on the care of patients in
11 chronic pain or on patients with pain at the end of
12 life.

13 (4) RULE OF CONSTRUCTION.—Nothing in this
14 subsection shall be construed as limiting a Network
15 from developing other ways in which to provide sup-
16 port to families and providers, 24 hours a day, 7
17 days a week.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section,
20 \$18,000,000 for fiscal years 2000 through 2002.

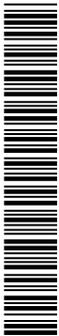


1 **TITLE III—REIMBURSEMENT**
2 **BARRIERS**

3 **SEC. 301. INSURANCE COVERAGE OF PAIN AND SYMPTOM**
4 **MANAGEMENT.**

5 (a) **IN GENERAL.**—The General Accounting Office
6 shall conduct a survey of public and private health insur-
7 ance providers, including managed care entities, to deter-
8 mine whether the reimbursement policies of such insurers
9 inhibit the access of chronic pain patients to pain and
10 symptom management and pain and symptom manage-
11 ment for those in need of end-of-life care. The survey shall
12 include a review of formularies for pain medication and
13 the effect of such formularies on pain and symptom man-
14 agement.

15 (b) **REPORT.**—Not later than 1 year after the date
16 of enactment of this Act, the General Accounting Office
17 shall prepare and submit to the appropriate committees
18 of Congress a report concerning the survey conducted
19 under subsection (a).



1 **TITLE IV—IMPROVING FEDERAL**
 2 **COORDINATION OF POLICY,**
 3 **RESEARCH, AND INFORMA-**
 4 **TION**

5 **SEC. 401. ADVISORY COMMITTEE ON PAIN AND SYMPTOM**
 6 **MANAGEMENT.**

7 (a) ESTABLISHMENT.—The Secretary shall establish
 8 an advisory committee, to be known as the Advisory Com-
 9 mittee on Pain and Symptom Management, to make rec-
 10 ommendations to the Secretary concerning a coordinated
 11 Federal agenda on pain and symptom management.

12 (b) MEMBERSHIP.—The Advisory Committee estab-
 13 lished under subsection (a) shall be comprised of 11 indi-
 14 viduals to be appointed by the Secretary, of which at least
 15 1 member shall be a representative of—

16 (1) physicians (medical doctors or doctors of os-
 17 teopathy) who treat chronic pain patients or the ter-
 18 minally ill;

19 (2) nurses who treat chronic pain patients or
 20 the terminally ill;

21 (3) pharmacists who treat chronic pain patients
 22 or the terminally ill;

23 (4) hospice;

24 (5) pain researchers;

25 (6) patient advocates;



1 (7) caregivers; and

2 (8) health insurance issuers (as such term is
3 defined in section 2791(b) of the Public Health
4 Service Act (42 U.S.C. 300gg-91(b))).

5 The members of the Committee shall designate 1 member
6 to serve as the chairperson of the Committee.

7 (c) MEETINGS.—The Advisory Committee shall meet
8 at the call of the chairperson of the Committee.

9 (d) AGENDA.—The agenda of the Advisory Com-
10 mittee established under subsection (a) shall include—

11 (1) the development of recommendations to cre-
12 ate a coordinated Federal agenda on pain and symp-
13 tom management;

14 (2) the development of proposals to ensure that
15 pain is considered as the fifth vital sign for all pa-
16 tients;

17 (3) the identification of research needs in pain
18 and symptom management, including gaps in pain
19 and symptom management guidelines;

20 (4) the identification and dissemination of pain
21 and symptom management practice guidelines, re-
22 search information, and best practices;

23 (5) proposals for patient education concerning
24 how to access pain and symptom management across
25 health care settings;

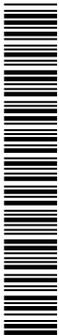


1 (6) the manner in which to measure improve-
2 ment in access to pain and symptom management
3 and improvement in the delivery of care; and

4 (7) the development of an ongoing mechanism
5 to identify barriers or potential barriers to pain and
6 symptom management created by Federal policies.

7 (e) RECOMMENDATION.—Not later than 2 years after
8 the date of enactment of this Act, the Advisory Committee
9 established under subsection (a) shall prepare and submit
10 to the Secretary recommendations concerning a
11 prioritization of the need for a Federal agenda on pain,
12 and ways in which to better coordinate the activities of
13 entities within the Department of Health and Human
14 Services, and other Federal entities charged with the re-
15 sponsibility for the delivery of health care services or re-
16 search on pain, with respect to pain management.

17 (f) CONSULTATION.—In carrying out this section, the
18 Advisory Committee shall consult with all Federal agen-
19 cies that are responsible for providing health care services
20 or access to health services to determine the best means
21 to ensure that all Federal activities are coordinated with
22 respect to research and access to pain and symptom man-
23 agement.



1 (g) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE;
2 OTHER PROVISIONS.—The following shall apply with re-
3 spect to the Advisory Committee:

4 (1) The Committee shall receive necessary and
5 appropriate administrative support, including appro-
6 priate funding, from the Department of Health and
7 Human Services.

8 (2) The Committee shall hold open meetings
9 and meet not less than 4 times per year.

10 (3) Members of the Committee shall not receive
11 additional compensation for their service. Such
12 members may receive reimbursement for appropriate
13 and additional expenses that are incurred through
14 service on the Committee which would not have in-
15 curred had they not been a member of the Com-
16 mittee.

17 (4) The requirements of appendix 2 of title 5,
18 United States Code.

19 **SEC. 402. INSTITUTES OF MEDICINE REPORT ON CON-**
20 **TROLLED SUBSTANCE REGULATION AND THE**
21 **USE OF PAIN MEDICATIONS.**

22 (a) IN GENERAL.—The Secretary, acting through a
23 contract entered into with the Institute of Medicine, shall
24 review findings that have been developed through research
25 conducted concerning—



1 (1) the effects of controlled substance regula-
2 tion on patient access to effective care;

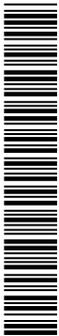
3 (2) factors, if any, that may contribute to the
4 underuse of pain medications, including opioids; and

5 (3) the identification of State legal and regu-
6 latory barriers, if any, that may impact patient ac-
7 cess to medications used for pain and symptom man-
8 agement.

9 (b) REPORT.—Not later than 18 months after the
10 date of enactment of this Act, the Secretary shall prepare
11 and submit to the appropriate committees of Congress a
12 report concerning the findings described in subsection (a).

13 **SEC. 403. CONFERENCE ON PAIN RESEARCH AND CARE.**

14 Not later than December 31, 2003, the Secretary,
15 acting through the National Institutes of Health, shall
16 convene a national conference to discuss the translation
17 of pain research into the delivery of health services to
18 chronic pain patients and those needing end-of-life care.
19 The Secretary shall use unobligated amounts appropriated
20 for the Department of Health and Human Services to
21 carry out this section.



1 **TITLE V—DEMONSTRATION**
2 **PROJECTS**

3 **SEC. 501. PROVIDER PERFORMANCE STANDARDS FOR IM-**
4 **PROVEMENT IN PAIN AND SYMPTOM MAN-**
5 **AGEMENT.**

6 (a) IN GENERAL.—The Secretary, acting through the
7 Public Health Service, shall award grants for the estab-
8 lishment of not less than 5 demonstration projects to de-
9 termine effective methods to measure improvement in the
10 skills and knowledge of health care personnel in pain and
11 symptom management as such skill and knowledge applies
12 to providing services to chronic pain patients and those
13 patients requiring pain and symptom management at the
14 end of life.

15 (b) EVALUATION.—Projects established under sub-
16 section (a) shall be evaluated to determine patient and
17 caregiver knowledge and attitudes toward pain and symp-
18 tom management.

19 (c) APPLICATION.—To be eligible to receive a grant
20 under subsection (a), an entity shall prepare and submit
21 to the Secretary an application at such time, in such man-
22 ner and containing such information as the Secretary may
23 require.

24 (d) TERMINATION.—A project established under sub-
25 section (a) shall terminate after the expiration of the 2-



1 year period beginning on the date on which such project
2 was established.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated such sums as may be nec-
5 essary to carry out this section.

